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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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02/24/2003

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EXAMINER

MULLIS, JEFFREY C

ART UNIT

PAPER NUMBER

1711

DATE MAILED: 02/24/2003

8

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/884,108

Applicant(s)

COURT ET AL.

Examiner

Jeffrey C. Mullis

Art Unit

1711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 December 2002.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5-16, 18-20 and 22-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-16, 18-20 and 22-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Art Unit 1711

All remaining rejections and/or objections follow.

Claims 19, 24 and 26 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention.

It is not clear if the S-B-S block copolymers recited by claim 19 are meant to be different than the S-B-M block copolymers of claim 1 given that the definitions for S and for M overlap, i.e. there is nothing excluding the possibility that the block S is a methyl methacrylate containing block.

Claim 24 is unclear since it recites that the B block comprises dienes and polydienes. Since the word "dienes" is plural, the word "polydienes" is redundant and in any case applicants' specification refers to "polydienes" only in the context of the entire block, i.e. it appears that the dienes are in fact polymerized dienes.

Claim 26 is unclear since the last line refers to a "pentablock" without reciting what the pentablock is. For instance it is unclear if the pentablock is intended to be a block copolymer.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

Art Unit 1711

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 5-16, 18-19 and 22 **THIS ACTION IS MADE**

FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

-26 are rejected under 35 U.S.C. § 102(b) as being anticipated by Gottschalk et al. (Macromol. Symp. 83, 127-146, 1994).

See the previous Office action at page 5 line 9 et seq.

Claims 1-26 are rejected under 35 U.S.C. § 102(b) as being anticipated by Mehler (Kunststoffe, 88, 1872, 1874 and 1876).

See the previous Office action at the paragraph bridging pages 5 and 6.

Art Unit 1711

Claims 1-3, 5-16, 18-20, 22-26 are rejected under 35 U.S.C. § 102(b) as being anticipated by Gottschalk (DE 4240445).

See the previous Office action at page 6 line 5 et seq.

Applicants' arguments filed 12-11-02 have been fully considered but they are not deemed to be persuasive.

With regard to the rejection under 35 U.S.C. § 112 second paragraph pertaining to claim 19 where it is stated that it is not clear if the SBS block copolymer recited in claim 19 is meant to be different than the SBM block copolymer of claim 1, there is nothing in the specification at page 8 lines 20-22 which clarifies this question.

With regard to the art rejections, applicants allege that their amendment reciting a polystyrene polymer distinguishes over the prior art. However at present it is not clear what applicants mean when they recite that their polystyrene polymer is a "polystyrene which is not part of a copolymer". A polystyrene which is not part of a copolymer would appear to the Examiner to be a block copolymer. Such is not embraced by the SAN of the prior art. If applicants intend that their polystyrene polymer is a polymer which does not contain styrene as part of a copolymer, i.e. is a homopolymer, then this is clearly the case except with regard to Mehler. Applicants may if they wish amend the claims in any response to recite that their polystyrene polymer is a homopolymer. This will overcome the

Art Unit 1711

rejections under 35 U.S.C. § 102 relying upon Gottschalk as well as that relying upon DE '445. With regard to Mehler, this reference discloses blends of polyphenylene ether and styrene. Note the caption for Figure 5 on page 1874 which discloses a blend of PPE/HIPS, i.e. a blend of polyphenylene ether and polystyrene containing rubber. While SAN is apparently present in this blend, the instant claims do not exclude such.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey Mullis whose telephone number is (703) 308-2820. The examiner can normally be reached on Monday-Friday from 9:30 to 6:30.

Serial No. 09/884,108

-6-

Art Unit 1711

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Seidleck, can be reached on (703) 308-2462. The fax phone number for this Group is before final (703) 872-9310 and after final (703) 8729311.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-2351.

J. Mullis:cdc

February 20, 2003

J. Mullis
Primary Examiner
Art Unit 1711

